

Judge Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

TAMMY L. BEACHEM,
a/k/a "Tammy L. Baker,"
a/k/a "Tammy L. Bruner,"
a/k/a "Tracey Kay Williams,"
a/k/a "Brenda N. Delany,"
a/k/a "Brenda N. Dumars,"
a/k/a "Jimmie L. Cain,"
a/k/a "Jimmie L. Caine,"
a/k/a "Jimmie L. Lewis,"
a/k/a "Brenda Davis,"

Defendant.

NO. CR05-302MJP

ORDER CONTINUING TRIAL DATE

THIS MATTER comes before the Court as a result of a motion by Defendant Tammy L. Beachem to have new counsel appointed, filed on October 5, 2005. Based on the information presented at the hearing on that motion, information presented to the Court through court staff, and being otherwise fully advised, the Court now finds and rules as follows:

1. At the time Defendant's motion for new counsel was filed, trial was set for October 17, 2005. This was the original trial date, and no previous continuances had been sought or granted.

2. A hearing was held Defendant's motion for new counsel on October 11, 2005, just six days before the then-scheduled trial date.

1 3. At the hearing on October 11, 2005, Defendant was advised that obtaining a
2 new lawyer so close to trial would necessitate a continuance of the trial date, and
3 Defendant acknowledged and consented to the continuance.

4 4. Based on the information presented at the hearing, the Court orally granted
5 the motion for new counsel. As part of the Court's order granting the motion, the Court
6 struck the October 17, 2005 trial date with instructions that the parties contact the Court
7 to set a new trial date once new defense counsel was appointed.

8 5. Ralph Hurvitz was appointed new defense counsel shortly thereafter.
9 Mr. Hurvitz formally appeared in this matter on October 27, 2005.

10 6. Discovery in this matter is not inconsiderable, consisting of in excess of
11 925 pages of material - none of which could have been reviewed by new counsel in time
12 to prepare for the original trial date.

13 7. After preliminary reviewing the discovery and meeting with his client, the
14 parties conferred about this matter's readiness for trial, and contacted Court staff to
15 advise that both parties could be ready for trial on November 29, 2005.

16 8. Defendant filed a written "Waiver of Speedy Trial" through December 15,
17 2005, on or about October 24, 2005.

18 9. Defendant further filed a motion to dismiss Counts 4 and 6 of the
19 Indictment on October 27, 2005, noted for consideration on November 14, 2005. The
20 Government's response to that motion was filed on November 8, 2005. Consideration of
21 that motion is still pending, further tolling the speedy trial clock pursuant to
22 18 U.S.C. § 3161(h)(1)(F).

23 10. The Court hereby finds that a continuance from October 17, 2005, until at
24 least November 29, 2005, was and is necessary to avoid a miscarriage of justice within
25 the meaning of 18 U.S.C. § 3161(h)(8)(A). Denying the continuance, after granting the
26 motion for new counsel for good cause shown, would have denied the defendant
27 reasonable time to obtain counsel and/or would have denied counsel for the defendant the
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1 reasonable time necessary for effective preparation for trial, taking into account the
2 exercise of due diligence.

3 11. For all of the reasons stated above, the Court further finds that the need to
4 avoid this miscarriage of justice outweighs the Defendant's own best interest in a speedy
5 trial, as well as the interest of the public in a speedy trial.

6 12. Accordingly, the Court further finds that the time between October 17,
7 2005 and November 29, 2005, is excludable time within the meaning of 18 U.S.C.
8 § 3161(h)(8)(A).

9 Based on the foregoing findings and conclusions, now, therefore, it is hereby

10 ORDERED that the trial in this matter is continued to November 29, 2005.

11 ORDERED that pursuant to 18 U.S.C. § 3161(h), the period of time from the
12 current trial date to the new trial date is excluded in the computation of time under the
13 Speedy Trial Act as this is a reasonable period of delay.

14 SO ORDERED this 9th day of November, 2005.

15
16 /S/Marsha J. Pechman
17 THE HONORABLE MARSHA J. PECHMAN
18 United States District Court Judge

19 Presented by:

20 s/ Vincent T. Lombardi
21 VINCENT T. LOMBARDI WSB # 21967
22 Assistant United States Attorney
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25 Approved as to Form,
26 Notice of Presentation Waived

27 s/ Ralph Hurvitz
28 RALPH HURVITZ
Attorney for Defendant Tammy L. Beachem

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/
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